

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

SCHOTT METAL PRODUCTS, INC.,)	CASE NO.: 5:06CV2156
et al.,)	
)	
Plaintiffs,)	JUDGE JOHN ADAMS
)	
v.)	
)	
THE UNITED STATES)	<u>ORDER AND DECISION</u>
ENVIRONMENTAL PROTECTION)	
AGENCY, et al.,)	
)	
Defendants.)	
)	

This matter comes before the Court on Motion by Defendants United States Environmental Protection Agency and Margaret Guerriero, to dismiss this action due to lack of service. (Doc. #5) Plaintiffs Schott Metal Products, Inc. and Samuel C. Schott, filed an Opposition to the Motion. In the Opposition, Plaintiffs concede that service was not completed within 120 days. Federal Rule of Civil Procedure 4(m) requires a court to dismiss the action if the plaintiff has failed to served the defendants with a copy of the complaint within 120 days. Plaintiffs allege that service was not timely completed due to a mistake made within counsel's office.

Although this Court agrees that it has the discretion to enlarge the time for effecting service, if finds that Plaintiffs have failed to show good cause sufficient to justify setting aside the requirement of dismissal under Rule 4(m). As such, Defendant's Motion to Dismiss is

GRANTED. This action is dismissed without prejudice.

So ordered.

Date: March 15, 2007

/s/ John R. Adams
JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE